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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,902	01/09/2007	Lothar Bihy	2584SG-7	6146
22442	7590	12/12/2008		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			12/12/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,902	<b>Applicant(s)</b> BIHY ET AL.	
	<b>Examiner</b> Norca L. Torres-Velazquez	<b>Art Unit</b> 1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>42006 102708</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 recites "at least one layer (EMF layer), which is formed so as to be permeable to diffusion." It is noted herein that the acronym "EMF" could refer to several different materials, making the claim indefinite. Further, it is not clear if Applicants are positively claiming an "EMF layer" as it is in parenthesis. For examining purposes the Examiner interprets the acronym "EMF" as being an electromagnetic-field-shielding layer in accordance with the Specification, however, Applicants are advised to properly claim the material in the claims. Claims 2-15 are rejected as being dependent on claim 1.

3. Claim 9 recites the limitation "the reinforcement or protective layer" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 8-9 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by ZUPON et al. (US 6,797,356 B2).

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ZUPON et al. discloses a reflective insulation system that includes a perforated reflective layer such as aluminum, a layer of fiberglass, and a layer of vapor retarding material. (Abstract; Claim 1) The layer are bonded by hot melt glue in a swirl-like pattern. (Col. 5, lines 31-33) The vapor retarded comprises polypropylene. (Claim 3)

The Examiner equates the aluminum layer to the claimed electromagnetic-field-shielding; the layer of vapor retarding material to the claimed barrier layer.

With regards to claims 8 and 9, it is the Examiner's position that the fiberglass layer reads on the diffusion permeable reinforcement and it is further noted that the reference teaches in one embodiment that the vapor barrier layer could be a laminate that includes a polypropylene layer, a scrim material layer and a kraft material layer. (Refer to Col. 5, lines 9-11)

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by BRINTON (EP 0123965 A2).

BRINTON discloses a porous static electric charge dissipative laminate that has high rate of water vapour transmission. The laminate comprises a layer of porous polymeric film and adhesively bonded to it an electrically conductive textile fabric capable of dissipating static electric charge. (Abstract) The porous polymeric film can be made of polyvinyl chloride, polyurethane, polyacrylate esters and poly fluoroethylenes. (Page 3, lines 25 through Page 4, lines 1-2) The reference also teaches using conductive carbon black or metal in the electrically conductive textile fabric. (Refer to Page 6, lines 11-12) The layers are united into a layered composite by a discontinuous pattern of adhesive, leaving a large percentage of the surfaces of the two plies adhesive-free and hence readily moisture permeable. (Refer to Page 8, lines 1-13)

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Thus, the Examiner equates the porous polymeric film to the claimed barrier layer and the electrically conductive textile layer to the claimed electromagnetic-field-shielding layer.

***Claim Rejections - 35 USC § 102/103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JENSEN (EP1296002 A2).

JENSEN discloses a vapor barrier or underroof for buildings. The reference teaches the use of a film or foil of ethylene vinyl alcohol as a water vapor barrier and further teaches that the film may be part of a laminate. (Abstract; [0012]) One or both sides of the ethylene vinyl alcohol film or foil may be covered by another water vapor penetrable film or foil, such as Nylon, or a perforated film or foil of a substantially water vapor impervious material. [0016], [0021] The second membrane may be made from one or more of the materials selected from the group consisting of aluminum and other metals, metallised polyethylene terephthalate, among others. [0022], [0031] The laminate may further comprise an intermediate layer of a water vapor transmitting material, such as felt. [0032]

With regards to claim 13, although JENSEN does not explicitly teach the claimed water vapor diffusion resistance it is reasonable to presume that this property is inherent to laminate of Jensen.. Support for said presumption is found in the use of like materials (i.e. uses a water vapor penetrable film in combination with a membrane that comprises a metal that would serve

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for the electromagnetic field shielding purpose of the present invention, the layers are bonded by using a polymer glue). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of S<sub>D</sub> would obviously have been present once the vapor barrier laminate is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/  
Primary Examiner, Art Unit 1794.

December 8, 2008